

### REMARKS

This responds to the Office Action mailed on November 14, 2008.

Claims 3-5 have been canceled. Claims 1-2 and 6-10 are now pending in this application.

#### § 112 Rejection of the Claims

Claims 3-5 were rejected under 35 U.S.C. § 112, first paragraph, as lacking adequate description or enablement. In addition, Claims 3-5 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite. Claims 3-5 have been cancelled, rendering the rejection under § 112 moot.

#### § 103 Rejection of the Claims

Claims 1, 3-6 and 8-10 stand rejected under 35 U.S.C. § 103(a) as being obvious over Nahan et al. (U.S. Patent No. 5,664,111) in view of Cox ("*Manic Market: Prices of Hottest Art Research Stunning Levels as Boom Keeps Going*").

Claim 1 recites:

processing an order to buy said good from said participant terminal by transferring ownership of said good from a first owner to a second owner and changing said data record to reflect a new offer price from said second owner; and  
posting said good on said market maker computer at said second owner offer price.

In the Office Action mailed November 14, 2008, the Examiner admits that the above limitation is not described in Nahan. The Examiner suggests that, because the Cox reference "teaches the advent of speculation in art auctions," the above limitation would have been an obvious feature to add to Nahan. Applicant disagrees.

The rationale provided by the Examiner to support a conclusion of obviousness is flawed. The Cox reference does not relate to or describe a computerized market, and specifically does not describe the above limitations. The fact that the Cox reference describes a situation in which an art seller may profit from buying and selling art is irrelevant, and does not render the above limitation obvious. When man first looked to the sky and saw a bird flying, the concept of flying became known. This did not, however, render the airplane obvious. Similarly, the fact that the

concept of speculation existed at the time of Applicant's invention, does not render obvious the limitation, "changing said data record to reflect a new offer price from said second owner; and posting said good on said market maker computer at said second owner offer price."

Furthermore, the above described limitation offers advantages that simply are not possible with the subject matter described in Nahan and Cox. For instance, it will be readily appreciated that, by enabling an owner to buy a good and immediately post the good for sale at a new price, the owner need not provide a new description of the good, as the previously provided description can be reused.

Neither Nahan nor Cox describe or suggest the limitation, "changing said data record to reflect a new offer price from said second owner; and posting said good on said market maker computer at said second owner offer price." The Cox reference does not render the limitation obvious. Therefore, Applicant submits that claim 1, and dependent claims 2 and 6-10, are not obvious in view of the cited references. Applicants respectfully request that the rejections of claims 1-2 and 6-10 be withdrawn, and the claims allowed.

**CONCLUSION**

Applicant respectfully submits that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicant's representative at (408) 660-2014 to facilitate prosecution of this application.

If necessary, please charge any additional fees or deficiencies, or credit any overpayments to Deposit Account No. 19-0743.

Respectfully submitted,

SCHWEGMAN, LUNDBERG & WOESSNER, P.A.  
P.O. Box 2938  
Minneapolis, MN 55402  
(408) 660-2014

Date

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By

Nathan P. Elder

Nathan P. Elder

Reg. No. 55,150

CERTIFICATE UNDER 37 C.F.R. 1.8: The undersigned hereby certifies that this correspondence is being filed using the USPTO's electronic filing system EFS-Web, and is addressed to: Mail Stop Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on this 14th day of May, 2009.

Chris Bartl  
Name

C. Bartl  
Signature